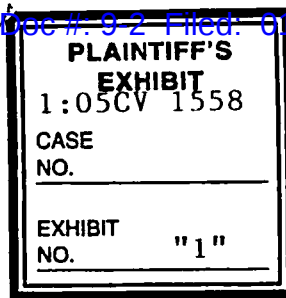


County of Cuyahoga
State of Ohio



Case 8-CA-35807

8-CB-10346

AFFIDAVIT

I, Phillip Oliver, being duly sworn upon my oath, hereby state as follows:

I have been given assurances by an agent of the National Labor Relations Board that this affidavit will be considered confidential by the United States Government and will not be disclosed unless it becomes necessary for the government to produce the affidavit in connection with a formal proceeding.

I reside at 332 Brace Ave., Elyria, OH 44052

My telephone number is 440-322-1243 My cellphone number is 440-452-3102

I am employed by Republic Engineered Products (Employer)

located at Lorain, Ohio

1. I have given an affidavit to the NLRB prior to today in connection with a previous charge that I filed against the Union in Case No. 8-CB-10286. That information contains information relevant to the instant charge.
2. The Employer is engaged in the production of steel products, including pipe and other unfinished products for the automotive industry. The Employer has three shifts: 11:00pm to 7:00am; 7:00am to 3:00pm; and 3:00pm to 11:00pm. There are at least five departments at the plant.
3. I began working for Republic Engineered Products (Employer) on May 10, 1974. I am currently employed as a run out operator. As a run out operator, I am responsible for cutting steel to the specific links as requested by the customer. I work in the billet casting department. I work rotating shifts, also called swing shift. I report directly to Tom Yovan, who is a continuous caster and works as a working foreman. Yovan is in the bargaining unit and always works the shift that I am assigned – he rotates with me. Yovan reports to the Department Manager on whatever shift he is working. The Department

Managers report to Lipinski (first name unknown), who is the Plant Manager. I currently earn \$17.17 per hour and work about 40 hours per week.

4. The United Steelworkers of America, Local Union No. 1104 (Union) has represented the employees of the Employer since I have been employed there. According to Section 3 of the collective bargaining agreement, the unit consists of "all production and maintenance employees (including all employees performing office, clerical and technical work that are included in existing RTI/USWA bargaining units) of the Company's steel manufacturing and finishing facilities..." There are about 1100 bargaining unit employees. The term of the current collective bargaining agreement is August 16, 2002 to August 15, 2007.
5. I have been a member in good standing with the Union during my entire employment with the Employer. I have never held any position with the union, and have never run for any union position. I have never campaigned for or against any union officials or persons running for union office. I have never circulated a petition to get rid of the Union, or join another union.
6. No supervisors or managers have ever said anything to me about the Union that indicated that they maintained hostility against the Union, or maintained hostility against me because I was a member of the Union.
7. With respect to the charge against the Union, I am alleging that the Union has failed to represent me regarding two issues: 1) the elimination of my group leader position and 2) denial of overtime from the period of 2003 to 2004 3) harassment. I am not alleging in this charge that the Union failed to represent me regarding the Employer's refusal to allow me to return to work on November 28, 2004 from medical leave. Regarding the charge against the Employer, I am alleging that the Employer unlawfully eliminating my group leader position and harassed me.

8. In 1994, I began working as a run out group leader in the billet casting department. I bid on the position in accordance with the bidding procedure in the contract and was awarded the position. I received more pay when I moved into the group leader position. I worked in the run out group leader position until November 19, 2004, at which time I was told that the position was eliminated. When I first started working as a run out group leader, I was responsible for performing minor maintenance on such things as the heads, which are either square or round and are the base of the product. In addition, I was responsible for cleaning my work area, including sweeping the floors, cleaning under the cooling bed (bed that steel goes over). In the position of group leader, I also worked as a run out operator. I normally worked as a run out operator if someone was off of work or if an employee had been hired and was unfamiliar with the job. If we had enough people at work, or if there were experienced employees working, I did not normally perform run out operator duties but mainly performed minor maintenance and clean up as described above. As a group leader, I worked Monday through Friday, 7:00am to 3:00pm.
9. Beginning in 1999, the Employer began to add more responsibilities to my group leader position. The Employer basically assigned me to various jobs in the plant where they needed help. Some of the jobs I performed included running torches in shipping, operating on the cast floor, working in the bloom caster (the bloom caster cuts larger steel), and performing millwright work (operate and fix machinery). I had experience in performing the above work before I became a group leader. In addition to performing the above jobs, I continued to perform minor maintenance and clean up, and also worked as a run out operator when needed. I did not talk with any representatives of the Union about the fact that they were adding more responsibilities to my position – I was fine with the added responsibility.
10. Around 1999, the Employer began to call me to work at various times and I no longer worked just Monday through Friday on days. The Employer called me

to perform group leader duties, operator duties, or anything that they needed me to do. I did not talk with any representatives of the Union about the fact that I was working various hours and no longer working straight days.

11. Beginning in January or February 2003, employees were on layoff and we were therefore short handed. John Gayle, who was the Department Manager at the time but is now the Head of Quality Assurance, asked me to work as a ^{P.O. run P.O.} ~~cut out~~ operator full-time. ^{P.O. until they had a full staff P.O.} I told him that was fine. Even though I worked mainly as a ^{P.O. run P.O.} ~~cut out~~ operator, I continued to perform minor maintenance and clean up in connection with my group leader position. I continued to receive group leader pay.
12. On or about June 2003, the Employer began to recall employees back to work into our department. Around this time, I asked Gayle if I could return to performing my group leader duties. Gayle told me that I could once people were trained. (This is consistent with what the Employer had done in the past with the group leader position. As a group leader, I was responsible for training employees who are new or are returning from layoff. After training the employees, I returned to my group leader position.) I trained the employees to work as ^{P.O. run P.O.} ~~cut out~~ operators. As of early August 2003, most of the employees were pretty well trained. Therefore, I took a week of vacation. While on vacation, we had the blackout. Therefore, I called Gayle and asked if I was going to be able to work next week because of the blackout. Gayle told me that everybody was going to be laid off because of the blackout. From August 2003 to the middle of October 2003, most of the employees were on layoff because a lot of the equipment had been affected by the blackout. During the period from August 2003 to the middle of October 2003, I contacted Gayle, Department Manager George Petrilla, the Shift Manager's Office, Darrell Zakutny, who is a bargaining unit employee who also does the scheduling, and left messages with all of them asking if I could come back to work. None of the individuals returned my phone calls. I did not contact any representatives of the Union during this time period that I was laid off.

13. On or about October 1, 2003, I called Zakutny and left a message asking for a week's vacation. I was on layoff at the time. Zakutny did not return my call. On or about October 11, 2003, I heard from other employees that the Employer was going to start calling people back. When I learned this, I called Zakutny and left a message stating that I wanted to cancel my vacation. Zakutny never got back to me so I went ahead and took vacation the week of October 15, 2003.
14. On or about October 22, 2003, I returned to work from my vacation. I began working as a run out group leader. (Although I was working as a run out group leader, the schedule did not have a job position next to my name. Prior to this, it had group leader next to my name. On or about October 22, 2003, it did not have run out operator or group leader next to my name.) After returning from vacation, I was performing mainly group leader duties such as maintenance, repair and cleaning. Around this time, I learned that other less senior employees were working in shipping and the new department while I was laid off. (The new department is a new department also called the 20 inch department, which is where bloom steel is rolled into a round product) After I learned this, I asked Gayle about it. Gayle told me that he would make it up to me and let me work overtime. I did not talk with any representatives of the Union regarding the fact that less senior employees were working while I was laid off because Gayle said that he would take care of it.
15. ^{P.O.} ~~Beginning~~ Around November 1, 2003, Gayle allowed me to work overtime in the new department running the crane. I continued to work as a group leader. Around the second or third week of November 2003, some of the run out operators went on sick leave. Around this time, Gayle asked me to work as a run out operator while they were off. I agreed. I continued to perform my group leader duties and continued to receive group leader pay. On or about December 2003, the Employer recalled some employees who were on layoff status. I re-introduced the employees into that job, and also continued to perform group leader duties.

16. On or about December 2003, Gayle asked employees to take early vacation for the following year. (If employees took their vacation earlier in the year, the Employer could plan for the rest of the year.) Around this time, I talked to Gayle in the plant. Gayle and I were the only two present for the conversation. I told Gayle that I would take four weeks of my vacation in January 2004 if he would give me overtime liberally during the year of 2004. I explained that I needed the overtime in order to make payments on my house that I was in jeopardy of losing. Gayle said that he would give me the overtime. I did not inform any representatives of the Union at this time that Gayle had agreed to give me overtime liberally during the year of 2004.
17. During the month of January 2004, I took my vacation. On or about March 2004, I asked Gayle if I could work overtime (I was looking to work overtime in any part of the plant, not necessarily in the new department.) Gayle said that he would. However, Gayle did not assign me to work overtime, but asked some of the less senior run out operators to work overtime on their days off. The employees were assigned to perform clean up duties and things like that. Some of the less senior run out operators who were assigned the overtime were Linda Dampier, John Paytosh, Doug Wahl, Roda Butcher, and Martin Ortiz. From March 2004 until May 2004, I talked with Gayle on a weekly basis about working overtime. Initially, Gayle said that he would get to it. However, Gayle still never asked me to work overtime. During these conversations, I asked him to perform work that no one else wanted to do, such as running a skid loader to clean scale from under the cooling bed – these duties are considered group leader duties. Eventually, on or about May 2004, Gayle told me that I would get that work but it would not be overtime. Gayle then assigned me to run the skid loader during regular work hours.
18. During the year 2004, other than two occasions, the only time I worked overtime was when they were forced to let me work overtime because another employee had called off. The occasions when they actually asked me to work overtime that was not because someone had called off were in May 2004 and

P.O. performing P.O.
cleaning work

October 2004. I do not know how many hours of overtime that I worked during 2004. Based on my observation, Linda Dampier worked more overtime than I did. I did not talk with the Union about the fact that the Employer was no longer assigning me overtime until December 2004. This will be discussed later in the affidavit.

19. On or about February 2004, Gayle told me that I was still a run out group leader, but needed me to operate because we were short personnel. Beginning on or about February 2004, I began working solely as a run out operator and was no longer working as a group leader. I never performed any group leader duties after February 2004. Beginning on or about March 2004, Gayle began to assign my group leader duties to Darrell Zakutny, who as stated above is a unit employee but is not a union officer. Zakutny is responsible for the scheduling and has more seniority than I do. Around March 2004, the Employer posted on the board located in our department that Zakutny and I were splitting group leader duties. Around this time, I asked Gayle about him assigning Zakutny to group leader duties. Gayle responded that I was off and he asked Zakutny to do it. (Gayle meant that things came up when I was not scheduled to work. Gayle did not call me and ask me to come in and perform the duties. In the past, Gayle called me in to perform various duties, including group leader duties.) I did not talk with any representatives of the Union about the fact that I was no longer performing group leader duties until October 2004. This conversation will be discussed below.

20. On or about August 20, 2004, I was suspended for being intoxicated when I reported to work. I was suspended for 28 days. I had to go through a rehabilitation program.

21. On or about September 22, 2004, I met with the Employer about returning to work. The meeting took place in the Human Resources Building. Don Brown, who is the Union Committee Man, Dina Jarrel, who works in Human Resources, Greg Paolinei, who is the Plant Manager, were present at the

meeting. At the meeting, we discussed my return to work agreement. It was agreed that I return to work the following Monday. ^{P.O. During the meeting, I spoke with the Union representative.} The Employer told me that if I did not accept the agreement, I would be out of work for a year. ^{P.O. Brown P.O.} The Employer said that they were not going to make any changes to the agreement. ^{P.O. During the meeting, P.O.} The Employer said that it would be good as part of my rehabilitation if I had a job where I worked straight days.

22. After the above meeting, I had a conversation with Union Committee Man Don Brown in the Human Resources Building. Brown and I were the only two present for the conversation. I made reference to the statement made by the Employer that I should work in a position that was straight days. I told Brown that I had a job, my group leader position, where I worked straight days. (I was not working straight days at the time but was working swing shift. I was referring to my group leader position which was a day job.) Brown responded, "oh really" and indicated that he did not know that. Brown said that he would not do anything about that right now because there was a new manager in my department and he would talk with him later about it. Brown told me that if I did not accept the agreement, I would be off of work for a year. I signed the agreement. I did not tell Brown at this time that the Employer had not assigned me to group leader duties since February 2004.
23. On or about September 27, 2004, I returned to work. I was working 7:00am to 7:00pm – we were working 12-hour shifts. ^{P.O. Brown P.O.} I was working as a cut out operator.
24. On or about the middle of October 2004, I called Brown and left a message on his voice mail asking him what was going on about getting me back to days working as a group leader. A few days later, Brown called me back. I explained to Brown that I was working as an operator during 2004 and was not doing any group leader duties. Brown told me that he was still working on it and said he would have to get back with me. Brown said that he was going to set up a meeting with Ryan Behenna, who is a Department Manager.

25. On or about early November 2004, I called Brown. Brown said that Behenna said that he had to set up a meeting to talk with Gayle about my job.
26. On or about November 15, 2004, I called Brown. Brown said that they had set up a meeting and they were going to be talking later on in the week about my job.
27. On or about November 19, 2004, Brown called me at my work area. Brown told me that the Employer had eliminated the group leader position. Brown did not give me a reason why the position was eliminated. I told Brown that Darrell Zakutny was doing my job. Brown said that they were going to let Darrell do my job and he has seniority over me. I said that I was better qualified than Darrell to do the job. I asked Brown if we could file a grievance on that. Brown said that we would file one. The conversation then ended.
28. After my conversation with Brown, I was very upset and took two weeks of sick leave. While I was on sick leave, I had a telephone conversation with Brown. Specifically, on or about November 24, 2004, I called Brown. I told Brown that they were not allowing me to come back to work even though I had a doctor's excuse. Brown said that they have to go by what the doctor said. I asked Brown what was going on with my group leader position. Brown said that they were going to file a grievance, but he still had not filed a grievance.
29. I returned to work from sick leave on November 29, 2004. I continued to work ^{POVIA P.D.} as a ~~ent~~ out operator.
30. On or about December 13, 2004, I had a telephone conversation with Brown. I called Brown. Brown told me to come to the union hall on December 15 to talk.
31. On or about December 15, 2004, I went to the union hall located in Lorain, Ohio. Initially, Brown and I met alone at the hall. Brown told me that he told me over and over again that the Employer had eliminated my job and put Darrell Zakutny on my job. I said that I was better qualified. Brown said that Darrell had seniority. I again said that I was better qualified. I asked him about

filing a grievance. Brown said what for, the Employer eliminated the job. I told him that he was supposed to grieve that. I asked Brown if there was anyone else that I could talk to. Brown said that the committee man Dan Vorhees and Union President Dash Sokol were in the next room. I went to the next room and introduced myself to Vorhees and Sokol. Vorhees, Sokol and I were the only three present in the room. I explained to them what was going on with the group leader position as described above. I also told them that the Employer would not let me work overtime as described above. (This was the first time that I mentioned anything to any union representatives about the Employer not allowing me to work overtime.) Sokol and Vorhees said that they were going on vacation the next week and would look into it once the Holidays were over. After my conversation with Sokol and Vorhees, I had another conversation with Brown at union hall. Brown and I were the only two present for the conversation. Brown wrote up a grievance for me regarding the elimination of the group leader position. Brown told me that he did not like me going over his head like that. Brown gave me the grievance to sign and I signed the grievance. Brown did not say anything else. I then left the union hall.

32. On or about December 27, 2004, I called Brown. I told Brown that I wanted a file a grievance because I felt that I was being harassed and denied overtime because of my race. Brown told me to talk with Judy Balogh, who is the Union Civil Rights Representative. I called Balogh at least five times on or about December 27 but did not get an answer.
33. Sometime before January 1, 2005, I spoke with Balogh on the telephone. I told Balogh about the overtime. I said that the Employer was harassing me by going around and asking people if I had been drinking. (Employees had told me that Rob Black, who is a Supervisor, had been asking employees if I was drinking.) We set up an appointment to meet sometime before January 1, 2005.

34. Sometime just before January 1, 2005, I meet with Balogh at the union hall. Balogh and I were the only two present for the meeting. I told her about how the Employer was harassing me. I also talked to her about the overtime. Balogh took notes. Balogh said that she was going to talk to the company and see about all of the things that we had talked about. I did not complete any type of complaint or grievance at the time. Balogh told me that we would meet again on January 10, 2005.

35. On or about January ^{P.O. 3 or 4 P.O.} 8, 2005, I called Brown. I asked Brown for a copy of the grievance. Brown told me to come to the union hall ^{P.O. the following night P.O.} that night to pick up a copy of the grievance. ^{P.O. (We had a scheduled union meeting that night) P.O.} Later that night, at 7:30pm, I went to the union hall. ^{P.O. the following P.O.} Brown gave me a copy of the grievance and told me that he would set up a step 2 grievance meeting.

36. On or about January 10, 2005, I reported to the union hall to meet with Balogh. However, Balogh did not show up for the meeting. As stated in my initial affidavit, I left paperwork for Balogh. I have provided the board agent with the paperwork that I provided to Balogh. For the next two weeks, I called Balogh on about 10 to 15 occasions at home and work, but was not able to reach her. Balogh does not have an answering machine or voice mail at either number.

37. On or about January 23, 2005, I called Balogh at work and she answered the phone. I asked her about my complaint. Balogh told me that she had not even gone down there and picked it up. Balogh said that she was going to quit being the Civil Rights person and I had to call down to the Union hall and see who was going to handle it.

38. On or about January 24, 2005, in the morning, I called the union hall and asked to speak to Sokol. As stated in my initial affidavit, I told Sokol what happened and he said that he would look into it. Sokol never got back to me until March 17, 2005 as will be discussed below.

39. As stated in my previous affidavit, Brown called me on or about January 26, 2005 and informed me that the Employer and the Union were talking about setting up a step two grievance meeting on February 14 over the elimination of my group leader job. Brown told me that I could attend the meeting.
40. On or about February 17, 2005, I attended a second step grievance meeting in the Human Resources Building. Vorhees, Brown, Ken Payne, who is the Assistant Grievance Committeeman, and Brian Sealy, who is the Grievance Committeeman were present on behalf of the Union. Behenna, Gayle, Jarrell, and Harry DeVilling, who is the Human Resources Manager, were present on behalf of the Employer. During the meeting, we discussed the grievance filed on my behalf regarding the group leader position being eliminated. I explained how Gayle did not take me off the job, but asked me to do these other jobs. The Employer said that the grievance was untimely because when I returned from layoff in 2003, I was no longer on the schedule as the run out group leader. I explained that I felt my name was not on the schedule as run out group leader because Darrell Zakutny would have had to change the format on the schedule. The Employer brought up the fact that I was still getting paid the group leader rate. I said that I was doing maintenance work and other duties. The Employer said that I should not be doing maintenance work anymore. The Employer said that they could put me on the cast floor, which is the same rate that I am getting but a different area. I responded that if I went on the cast floor, I would rather go on as an operating mechanic because they make more money. The Employer said that I would not be allowed to go as operating mechanic because they did not have any open positions right now. I asked if I could do it when employees were on vacation and the Employer said no. The Employer did not give me a reason why I could not fill in as an operating mechanic while employees were on vacation. Vorhees also stated that I could not work as an operating mechanic. I asked why. Vorhees told me that I would have to talk with Pat Gallagher, who is the union representative. I also brought up the fact that I was not assigned overtime. Gayle said that they could not give me all of the overtime. I said that he did not give me any overtime at all.

Someone in the meeting, I am not sure who he was, asked Gayle how long I had been on the group leader job. Gayle said that he did not know and said that he knew when he got there I was on the job. I was in the meeting for a little over an hour.

41. On or about March 6, 2005, I had about two telephone conversations with Vorhees. Vorhees called me on both occasions. During the first conversation, Vorhees said that my group leader grievance was untimely. Vorhees said that I should have filed the grievance when I first moved off of my group leader job. I told Vorhees that I did not think it was necessary because in the past Gayle had always moved me back to my job. Vorhees said that he had worked real hard trying to do this grievance. I told Vorhees that he had not done anything and hung up. Vorhees called me right back. I do not specifically remember what Vorhees said during the second conversation.
42. Sometime between February 17 and March 14, 2005, I called the union hall. I asked who was handling the Civil Rights matters. The secretary I spoke with said that Judy Balogh was still handling it. I then attempted to reach Balogh. Sometime between February 17 and March 14, 2005, I finally got a hold of Balogh. I asked her if she was still doing the Civil Rights. She said that she still is going to do it until they find her replacement. Balogh asked me if I was still trying to file my complaint. I said yes, and said it was down there and that Sokol had never gotten back to me. Balogh told me that she was not going to file the complaint because management had to make a decision about whether they would allow me to file a complaint and told me to go ahead and file with the EEOC. (I had never mentioned anything to Balogh or any union representative prior to this conversation about filing with the EEOC.)
43. Sometime ^{P.O. in February 2005, before my P.O.} ~~after my~~ conversation with Balogh, I filed charges with the EEOC concerning the harassment, overtime, the failure to upgrade me into the operating mechanic position, and the elimination of the group leader position. The EEOC charge was dismissed on May 4, 2005.

44. On or about March 14, 2005, Balogh called me. Balogh asked me if I still wanted to file a complaint. I said yes. Balogh said ok and asked if I wanted to have a meeting. I said yes and we agreed to meet on March 17.
45. On March 16, 2005, I called Brown at the plant but was unable to reach him. I left a message indicating that I wanted the minutes from the grievance meeting. Another union representative whose name I do not know called me and told me that all of that information was at the union hall and I needed to go down there and pick it up.
46. On or about March 17, 2005, sometime in the evening, I went to the union hall to meet with Balogh. Sokol and ^{P.O.} Vorhees were present also. At the beginning of the meeting, Balogh asked me if I was still filing over the overtime and harassment. I responded yes and I talked about the overtime and the harassment. I asked Sokol if they filed my complaint regarding the overtime and the harassment. (referring to the Civil Rights Complaint) Sokol and Vorhees said no, and said that it was untimely. ^{P.O.} Vorhees showed me my file, but would not let me look in it. Vorhees said that it was my fault that I made an agreement with the company on my own and did not have the Union involved. (Vorhees was referring to the agreement that I had made with Gayle regarding overtime.) I explained that I was doing the maintenance and millwright work when I was working as the run out group leader and was looking for an upgrade to the operating mechanic position. I explained that I am a craftsmen. Vorhees told me that I could not be an operating mechanic and told me that I would have to contact Union representative Pat Gallagher regarding it. During the meeting, Vorhees said that Balogh was not going to be the Civil Rights representative anymore and that they had another gentlemen that they were talking to that night who was going to do it. During the meeting, I asked Vorhees for a copy of the minutes taken by the Union at the grievance meeting. Vorhees raised his voice and told me that he was tired of me asking for it. Vorhees gave me the Employer minutes from the grievance meeting and had me sign it stating that I received a copy of it.

47. The Union never filed my Civil Rights complaint. As stated above, Vorhess said that it was untimely.

48. I never contacted Pat Gallagher regarding the operating mechanic position because I decided to talk to the Employer about it instead.

49. I wanted to file the Civil Rights Complaint regarding the harassment and the overtime. Referring to the harassment, I was referring to the fact that employees were being asked if I was drinking as discussed above. In addition, Gayle told me, along with employee Martha Jackson, in ^{P.O. March or April 2004 P.O.} May 2004 that he was ^{P.O. work P.O. P.O. except on my regular shift P.O.} not going to let me come down and do overtime, and the only time I could do it was ~~on my regular hours~~. Also, Gayle was watching me at work to make sure that I got my work done during regular hours instead of during overtime hours. In addition, I feel that the Employer harassed me by not allowing me to upgrade into the operating mechanic position. Referring to operating mechanic position, I have been asking to be put into that position since 2002. The operating mechanic is millwright and maintenance position that pays more than my current position. Out of the 12 maintenance employees, only two of them have more seniority than I do. I believe that when these employees take vacation, I should be allowed to upgrade into that position because I am a craftsman and that is why I was asked to perform the maintenance duties in the past. Since 2002, I have asked the Employer on occasions to be upgraded into the operating mechanic position. I recall specifically in 2002, I asked Gayle and Steve ^{P.O.} and Krispinski to be upgraded into the operating mechanic position. Gayle and Krispinski told me that I could not be upgraded into that position. Gayle and Krispinski said that they did not have any positions and did not have any overtime available in that spot. I also recently asked the Employer if I could work in that position. I asked the Employer, specifically Supervisor Rob Black, in January 2005 if I could be placed into operating mechanic position. On or about two weeks ago, I asked Nelson Miranda, who is a Supervisor for Maintenance, if I could be placed into the operating mechanic position. On June 2, 2005, I asked Jerry Bawiec, who is a Supervisor, if I could be placed

into in the operating mechanic position. Black, Miranda and Bawiec all told me that it was up to Ryan Behenna and it was his decision. I am not sure if the procedure for filing a Civil Rights complaint is in the contract or not.

50. As stated above, I requested to file a Civil Rights Complaint regarding the harassment and overtime and I did not know there was a difference between the Civil Rights complaint and the grievance.

51. I do not know why the Employer would harass me. I believe that they are harassing me as a person who happens to be black. In 2001, another employee made a complaint against me concerning the way that I spoke to her. This employee, Marcy Flemming, complained that I was intoxicated. Shortly after this, I confronted Gayle and George Petrilla, who is a Supervisor, in 2001 about the fact that they did not support me when I told the employees, as group leader, what to do. I told them that they needed to start doing their jobs. I believe that this upset them. Shortly after this incident in 2001, the Employer began to stop assigning me overtime work and limiting my work hours. It was around this time that the Employer began to call me in and work at all hours of the night as discussed earlier in the affidavit. The Employer also scheduled me opposite of Flemming.

52. I have worked in the operating mechanic position when needed to work overtime. The last time I recall working overtime in operating mechanic position was in January 2005.

53. I did not talk with the Union representatives about filing a grievance regarding the ~~elimination of my group leader position~~ prior to October 2004, because I did not want to upset my supervisor. I never had any union problems in the past. *P.O. fact that the Employer stopped assigning me group leader duties P.O. I did not know that the position was eliminated until November 19, 2004. P.O.*

54. I continue to receive the same rate of pay that I received as a group leader.

55. I am not aware of any language in the contract regarding the group leader positions and/or the elimination of job positions.

56. Other than the grievances discussed above, I have not filed any other grievances against the Employer, or attempted to file any other grievances against the Employer.
57. I believe that the Union did not process my grievances because the Union is trying to protect Gayle. I believe that they would try to protect Gayle because he is a dominant person.
58. Other than what is discussed above, no Union representatives said anything to me indicating that they have any hostility against me or an intent to discriminate against me.
59. The Employer has continued to limit my overtime in 2005. In February 2005, I worked about 9 hours of overtime in the scrap prep department. While working overtime in that department, other employees, who had less seniority than I did, told me that they were working overtime in the department. Since I worked the overtime, the other employees told me that they are not working the overtime anymore. All of the sudden, on June 1, 2005, Black called me and asked me to work overtime. I could not work overtime that day. The following day, Black called me again and asked me to work overtime on the cast floor. I think that it was odd that the Employer asked me all of the sudden to work the overtime in the cast floor when they refused to allow me to do it in 2004. When I was assigned the overtime on the cast floor, I was able to go to work right away without any instruction. I worked 16 hours of overtime on the cast floor the following week.

~~P.O. P.O. P.O. P.O.~~

P.O.

60. I do not feel that the Employer eliminated my group leader position because of my union membership.

I have read this statement consisting of 18 pages, including this page, I fully understand its contents, and I certify that it is true and correct to the best of my knowledge and belief.

Signature: Phillip Oliver
Date: June 23, 2005

1 Subscribed and sworn to before me at Elyria, Ohio on June 23, 2005

2 Nora McGinley

3 Nora McGinley, Board Agent

4 National Labor Relations Board